

REMARKS

The Office Action mailed January 26, 2009 stated a new requirement for Restriction/Election and vacated the previous Restrictions/Elections in connection with the Office Action previously mailed August 19, 2008 and the response thereto.

In the present Restriction Requirement, the application was characterized as containing the following groups of inventions:

Group I – Claims 1-23, 37, and 39-44, relating to a composition comprising a purified peptide of SARS coronavirus S protein.

Group II – Claims 24-28, relating to a composition comprising a purified nucleic acid molecule encoding peptide of SARS coronavirus S protein.

In response, Applicants hereby traverse and make the following provisional elections. Applicants elect the invention described as Group I, peptide compositions. The Office Action also indicated a requirement for election of a single species by election of one peptide by SEQ ID NO if Group I is elected in connection with a composition comprising a peptide (indicating claims 1-14, 19-28 and 39-44). Applicants hereby correspondingly elect a composition comprising the peptide of SEQ ID NO:67, an HR-C peptide analog. According to these elections, Applicants believe the claims readable on the subject matter for initial searching and examination include claims 1-6, 8-11, 13-26, 28, 37, and 40-44.

Applicants respectfully traverse the requirement for election of groups and for election of species in part based upon the following grounds. The inclusion of the subject matter of nucleic acids which correspond to elected peptides would not impose an undue search burden. Moreover, Applicants point out that many of the allegedly distinct peptides do share a common property or activity, namely the capability to disrupt a viral protein ability to adopt or maintain a fusion competent conformation, thereby inhibiting infectivity or spread of a virus. Applicants request reconsideration and withdrawal of the requirement of restriction among allegedly distinct groups and/or the requirement for election of species.

The claims are not amended herewith. No new matter is added.

Applicants reserve the right during prosecution on the merits to address, if necessary, any characterization of any references which were discussed in the Office action in the context of PCT Rule 13.1 and PCT Rule 13.2 regarding the contribution of any special technical feature. Applicants reserve the right to pursue, without prejudice, any subject matter including any claim(s) as originally filed and/or otherwise set forth or described in this present application and/or in an earlier or other application(s) such as a priority application(s).

This response is believed to be fully responsive to the previous Office Communication. Entry of this Amendment is respectfully requested. The Examiner is urged to contact the undersigned if it would be helpful in expediting the progress of this case.

Extension of Time

This response is believed to be timely filed without any extension of time. If necessary, please charge any fees required including any extensions of time required, and credit/refund any overpayment to Deposit Account No. 07-1969.

Respectfully submitted,

/sjpennerREG54371/

Steven J. Penner
Reg. No. 54,371

GREENLEE, WINNER & SULLIVAN, P.C.
4875 Pearl East Circle, Suite 200, Boulder, CO 80301
Telephone: (303) 499-8080
Facsimile: (303) 499-8089
Email: usptomail@greenwin.com